

**Motion to Vacate, Set Aside, or Correct a Sentence  
By a Person in Federal Custody**

**(Motion Under 28 U.S.C. § 2255)**

**Instructions**

1. To use this form, you must be a person who is serving a sentence under a judgment against you in a federal court. You are asking for relief from the conviction or the sentence. This form is your motion for relief.
2. You must file the form in the United States district court that entered the judgment that you are challenging. If you want to challenge a federal judgment that imposed a sentence to be served in the future, you should file the motion in the federal court that entered that judgment.
3. Make sure the form is typed or neatly written.
4. You must tell the truth and sign the form. If you make a false statement of a material fact, you may be prosecuted for perjury.
5. Answer all the questions. You do not need to cite law. You may submit additional pages if necessary. If you do not fill out the form properly, you will be asked to submit additional or correct information. If you want to submit a brief or arguments, you must submit them in a separate memorandum.
6. There is no fee for filing this case. If you cannot pay costs that may be associated with this motion (such as costs for an attorney or transcripts), you may ask to proceed in forma pauperis (as a poor person). To do that, you must fill out the enclosed in forma pauperis forms. Also, you must submit a certificate signed by an officer at the institution where you are confined showing the amount of money that the institution is holding for you.
7. In this motion, you may challenge the judgment entered by only one court. If you want to challenge a judgment entered by a different judge or division (either in the same district or in a different district), you must file a separate motion.
8. When you have completed the form, send the original (keep the copy for your own records) to the Clerk of the United States District Court at this address:

Clerk, United States District Court  
for the Western District of Missouri  
400 E. Ninth St  
Kansas City, Missouri 64106
9. **CAUTION:** You must include in the petition all the grounds for relief from the conviction or sentence that you challenge. And you must state the facts that support each ground. If you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.
10. **CAPITAL CASES:** If you are under a sentence of death, you are entitled to the assistance of counsel and should request the appointment of counsel.

**MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT  
SENTENCE BY A PERSON IN FEDERAL CUSTODY**

<b>United States District Court</b>	<b>District</b>
<b>Name:</b>	<b>Docket of Case No:</b>
<b>Place of Confinement</b>	<b>Prisoner No:</b>
<b>Movant</b>	<b>V. United States of America</b>

**MOTION**

1. (a) Name and location of court that entered the judgment of conviction you are challenging:

\_\_\_\_\_

(b) Criminal docket or case number (if you know): \_\_\_\_\_

2. (a) Date of the judgment of conviction (if you know): \_\_\_\_\_

(b) Date of sentencing: \_\_\_\_\_

3. Length of sentence: \_\_\_\_\_

4. Nature of crime (all counts): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

5. (a) What was your plea: (Check one)

(1) Not guilty

(2) guilty

(3) Nolo contendere (no contest)

(b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, what did you plead guilty to and what did you plead not guilty to? \_\_\_\_\_

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6. If you went to trial, what kind of trial did you have? (Check one)

Jury

Judge Only

7. Did you testify at a pretrial hearing, trial, or post-trial hearing?

Yes

No

8. Did you appeal from the judgment of conviction?

Yes

No

9. If you did appeal, answer the following:

(a) Name of court: \_\_\_\_\_

(b) Docket or case number (if you know): \_\_\_\_\_

(c) Result: \_\_\_\_\_

(d) Date of result (if you know): \_\_\_\_\_

(e) Citation of the case (if you know): \_\_\_\_\_

(f) Grounds for relief: \_\_\_\_\_

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(g) Did you file a petition for certiorari in the United States Supreme Court?

Yes

No

If "Yes" answer the following:

(1) Docket or case number (if you know): \_\_\_\_\_

(2) Result: \_\_\_\_\_

(3) Date of result (if you know): \_\_\_\_\_

(4) Citation to the case (if you know): \_\_\_\_\_

(5) Grounds raised: \_\_\_\_\_

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10. Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications concerning this judgment of conviction in any court?

Yes                      No

11. If your answer to Question 10 was “Yes”, give the following information:

(a)(1) Name of court: \_\_\_\_\_

(2) Docket of case number (if you know): \_\_\_\_\_

(3) Date of filing (if you know): \_\_\_\_\_

(4) Nature of the proceeding: \_\_\_\_\_

(5) Grounds raised: \_\_\_\_\_

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(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes                      No

(7) Result: \_\_\_\_\_

(8) Date of result (if you know): \_\_\_\_\_

(b) If you file any second motion, petition, or application, give the same information:

(1) Name of court: \_\_\_\_\_

(2) Docket of case number (if you know): \_\_\_\_\_

(3) Date of filing (if you know): \_\_\_\_\_

(4) Nature of the proceeding: \_\_\_\_\_

(5) Grounds raised: \_\_\_\_\_

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(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes                      No

(7) Result: \_\_\_\_\_

(8) Date of result (if you know): \_\_\_\_\_

(c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition, or application?

(1) First petition                      Yes                      No

(2) Second petition                      Yes                      No

(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not:

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12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE: \_\_\_\_\_

(a) Supporting facts: (Do not argue or cite law. Just state the specific facts that support your claim): \_\_\_\_\_

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(b) Direct Appeal of Ground One:

(1) If you appealed from the judgment or conviction, did you raise this issue?

Yes                      No

(2) If you did not raise this issue in your direct appeal, explain why: \_\_\_\_\_

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(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes                      No

(2) If your answer to Question (c)(1) is "Yes", state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

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Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

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(3) Did you receive a hearing on your motion, petition, or application?

Yes                      No

(4) Did you appeal from the denial of your motion, petition, or application?

Yes                      No

(5) If your answer to Question (c)(4) is "Yes", did you raise this issue on appeal?

Yes                      No

(6) If your answer to question (c)(4) is "Yes" state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

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Docket case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result: (attach a copy of the court's opinion or order if available): \_\_\_\_\_

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: \_\_\_\_\_

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GROUND TWO: \_\_\_\_\_

(a) Supporting facts: (Do not argue or cite law. Just state the specific facts that support your claim): \_\_\_\_\_

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(b) Direct Appeal of Ground Two:

(1) If you appealed from the judgment or conviction, did you raise this issue?

Yes                      No

(2) If you did not raise this issue in your direct appeal, explain why: \_\_\_\_\_

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(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes                      No

(2) If your answer to Question (c)(1) is "Yes", state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

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Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

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(3) Did you receive a hearing on your motion, petition, or application?

Yes                      No

(4) Did you appeal from the denial of your motion, petition, or application?

Yes                      No

(5) If your answer to Question (c)(4) is "Yes", did you raise this issue on appeal?

Yes                      No

(6) If your answer to question (c)(4) is "Yes" state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

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Docket case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result: (attach a copy of the court's opinion or order if available): \_\_\_\_\_

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: \_\_\_\_\_

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GROUND THREE: \_\_\_\_\_

(a) Supporting facts: (Do not argue or cite law. Just state the specific facts that support your claim): \_\_\_\_\_

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(b) Direct Appeal of Ground Three:

(1) If you appealed from the judgment or conviction, did you raise this issue?

Yes                      No

(2) If you did not raise this issue in your direct appeal, explain why: \_\_\_\_\_

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(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes                      No

(2) If your answer to Question (c)(1) is "Yes", state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

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Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

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(3) Did you receive a hearing on your motion, petition, or application?

Yes                      No

(4) Did you appeal from the denial of your motion, petition, or application?

Yes                      No

(5) If your answer to Question (c)(4) is "Yes", did you raise this issue on appeal?

Yes                      No

(6) If your answer to question (c)(4) is "Yes" state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

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Docket case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result: (attach a copy of the court's opinion or order if available): \_\_\_\_\_

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: \_\_\_\_\_

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GROUND FOUR: \_\_\_\_\_

(a) Supporting facts: (Do not argue or cite law. Just state the specific facts that support your claim): \_\_\_\_\_

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(b) Direct Appeal of Ground Four:

(1) If you appealed from the judgment or conviction, did you raise this issue?

Yes                      No

(2) If you did not raise this issue in your direct appeal, explain why: \_\_\_\_\_

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(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes                      No

(2) If your answer to Question (c)(1) is “Yes”, state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

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Docket or case number (if you know): \_\_\_\_\_

Date of the court’s decision: \_\_\_\_\_

Result (attach a copy of the court’s opinion or order, if available): \_\_\_\_\_

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(3) Did you receive a hearing on your motion, petition, or application?

Yes                      No

(4) Did you appeal from the denial of your motion, petition, or application?

Yes                      No

(5) If your answer to Question (c)(4) is “Yes”, did you raise this issue on appeal?

Yes

No

(6) If your answer to question (c)(4) is "Yes" state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result: (attach a copy of the court's opinion or order if available): \_\_\_\_\_

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: \_\_\_\_\_

13. Is there any ground in this motion that you have not previously presented in some federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them: \_\_\_\_\_

14. Do you have any motion, petition, or appeal now pending (filed and not decided yet) in any court for the judgment you are challenging? Yes                      No

If "Yes," state the name and location of the court, the docket or case number, the type or proceeding, and the issues raised: \_\_\_\_\_

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: \_\_\_\_\_

(b) At arraignment and plea: \_\_\_\_\_

(c) At trial: \_\_\_\_\_

(d) At sentencing: \_\_\_\_\_

(e) On appeal: \_\_\_\_\_

(f) In any post-conviction proceeding: \_\_\_\_\_

(g) On appeal from any ruling against you in a post-conviction proceeding: \_\_\_\_\_

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16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time? Yes      No

17. Do you have any future sentences to serve after you complete the sentence for the judgment that you are challenging?      Yes      No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future: \_\_\_\_\_

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(b) Give the date of the other sentence was imposed: \_\_\_\_\_

(c) Give the length of the other sentence: \_\_\_\_\_

(d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the judgment or sentence to be served in the future?      Yes      No

18. TIMELINESS OF MOTION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitation as continued in 28 U.S.C § 2244(d) does not bar your motion:

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“The Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA) as contained in 28 U.S.C. § 2244(d) provides in part that:

(1) A one-year period limitations shall apply to an application for writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitations period shall run from the latest of:

(A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;

(B) the date on which the impediment to filing an application created by State action in violation of the constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;

(C) the date on which the constitution right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

(D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of true diligence.

(2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitations under this subsection.

Therefore, Movant asks that the Court grant the following relief: \_\_\_\_\_  
\_\_\_\_\_

or any other relief to which petitioner is entitled.

\_\_\_\_\_  
Signature of Attorney (if any)

I, declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and this Motion Under 28 U.S.C. § 2255 was placed in the prison mailing system on \_\_\_\_\_  
\_\_\_\_\_ (Month, date, year).

Executed (signed) on \_\_\_\_\_ (Date)

\_\_\_\_\_  
Signature of Movant